

ENTERED

June 26, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SCWYANA SMITH,	§	CIVIL ACTION No.
Plaintiff,	§	4:22-cv-03951
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
PRECINCT 4 HARRIS	§	
COUNTY and JUDGE	§	
LINA HIDALGO,	§	
Defendants.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Plaintiff Scwyana Smith, proceeding *pro se*, brings claims against Defendants Precinct 4 Harris County and Judge Lina Hidalgo. Dkt 1. They have moved to dismiss. Dkts 4 & 11. Smith moves for summary judgment. Dkt 20.

Pending is a Memorandum and Recommendation by Magistrate Judge Christina A. Bryan dated April 24, 2023. Dkt 24. She recommends granting the motions to dismiss by Defendants and denying the motion for summary judgment by Plaintiff. Judge Bryan concluded that Plaintiff's claims must be dismissed because (i) this Court lacks jurisdiction to review a state court judgment; (ii) Judge Hidalgo is protected by official and qualified immunity; and (iii) Precinct 4 is not a legal entity capable of being sued. Dkt 24.

Plaintiff timely filed objections. Dkt 25.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir

1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

Upon *de novo* review and determination, Plaintiff's objections lack merit. No clear error otherwise appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.

The objections by Plaintiff Scwyana Smith to the Memorandum and Recommendation are OVERRULED. Dkt 25.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 24.


Plaintiff's claim for relief from the state court judgment in Cause No. 2018-52368 in the 113th Judicial District Court, Harris County, Texas is DISMISSED WITHOUT PREJUDICE for lack of jurisdiction.

All other claims asserted by Plaintiff in this case are DISMISSED WITH PREJUDICE.

Final judgment to follow.

SO ORDERED.

Signed on June 26, 2023, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge